



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

JUN 16 2004

FLEHR HOHBACH TEST ALBRITTON  
& HERBERT, LLP  
FOUR EMBARCADERO CENTER, SUITE 3400  
SAN FRANCISCO, CA 94111-4187

In re Application of :  
Roy Geoffrey Sargent :  
Serial No.: 09/470,859 : PETITION DECISION  
Filed: December 23, 1999 :  
Attorney Docket No.: A-68342-1 :

This is in response to the petition under 37 CFR 1.181 or, alternatively, under 37 CFR 1.137(b), filed January 9, 2004, for withdrawal of abandonment of the above identified application. The delay in acting on this petition is regretted.

A review of the file history shows that the examiner mailed a Final Office action to applicants on April 10, 2003, setting a three month shortened statutory period for reply. On or about July 18, applicant's attorney called the examiner requesting a copy of the Office action indicating that they had received, but misplaced, their copy of the Office action. The examiner mailed a courtesy copy of the Office action to applicant on July 24, 2003, but did not reset the period for reply. On or about December 17, 2003, applicant's attorney again contacted the examiner with regard to two references which were not in the file (and were not sent with the remailed courtesy copy of the Office action). As noted in the interview summary, the examiner informed applicant that the application was abandoned for failure to timely reply to the April 10, 2003, Office action. A Notice of Abandonment was then sent to applicant.

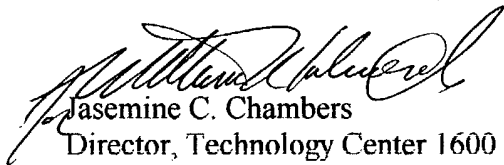
Applicant requests that the abandonment be withdrawn in view of the incorrect mail date of July 24, 2003, on their copy of the Office action. Applicant also filed with the petition a request for an extension of time and a Notice of Appeal. However, applicant acknowledges that the Office action, even according to their records, was mailed April 10, 2003, and that the docketing error occurred only because the replacement copy of the Office action had a new date thereon. Although it appears that the remailed copy of the Office action did not include the original cover sheet with the original mail date thereon, it likely would not have been noted by applicant's docketing personnel since it was not the first page of the Office action. Applicant and his attorney knew of the original due date of July 10, 2003, and maximum extendable due date of October 10, 2003, and failed to take appropriate action timely. In view of the evidence presented the Notice of Abandonment is not withdrawn under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DENIED**.

Applicant's conditional petition under 37 CFR 1.137(b) is not a petition which is decided within the Technology Center. In addition, each petition presented must be a separate paper. Applicant should resubmit this petition as a separate paper. This type of petition is decided in the Office of Petitions. This petition is **DISMISSED**.

**The application will be retained in storage.** This application may be revived by filing a timely petition under 37 CFR 1.137(b). Any such petition must be filed within TWO MONTHS of the mail date of this decision in order to be considered timely.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 703-872-9306.



Jasmine C. Chambers  
Director, Technology Center 1600